

# **Private Residence Conveyance Licensing 2004 Legislative Report**

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**As required by Chapter 143, Laws of 2003  
(Engrossed Substitute Senate Bill 5942)**

**DRAFT**

January 2004

Elevator Safety  
Advisory Committee

## **Executive Summary**

### **Private Residence Conveyance Licensing Report**

January 2004

#### **Background**

In 2002, the Legislature enacted legislation (Chapter 98, Laws of 2002 – Substitute House Bill 2629) to establish licensing requirements for mechanics and contractors performing work on elevators and other conveyances under Chapter 70.87 RCW. This legislation was promoted by the International Union of Elevator Constructors (IUEC) as part of a national effort to require licensing for this type of work in all states. The IUEC was working from a proposed Model Law, which was a draft law that was generically designed to establish an entire regulatory system for states that did not have one. As Washington already had a system in place for permitting and inspecting elevators and other conveyances only the provisions relating to licensing were utilized for the legislation in Washington. This legislation was supported by several parties and passed both the House of Representatives and the Senate.

After this law was enacted, the Department of Labor and Industries (L&I) utilized a collaborative process to begin implementing this new law. This process included meeting with various stakeholder groups to discuss the new law and L&I's implementation plan and draft rules for putting the process and licensing requirements in place. During these discussions, numerous stakeholders representing private industries, utilities, universities, contractors, and manufacturers of private residence conveyances, and homeowners expressed surprise and concern with how the new law would have regulated them and requested relief to address their concerns. Bound by the provisions of the new law, L&I was unable to address their concerns from a regulatory perspective. These individuals opted to seek legislative relief to address their concerns. L&I worked with these individuals throughout the 2003 legislative session to develop and negotiate legislation that addressed the concerns identified with the 2002 legislation in order to create reasonable conveyance-related licensing requirements that provided adequate public/worker safety and consumer protection.

The 2003 legislation that passed (Chapter 143, Laws of 2003 – Engrossed Substitute Senate Bill 5942) was the product of this process and passed the Legislature with an overwhelming majority. In this legislation the Legislature chose to require that a report be completed by the Elevator Safety Advisory Committee, which included findings and recommendations as to how individuals performing work or employing individuals to perform work on private residence conveyances should be regulated and/or licensed.

#### **Purpose/Deliverables**

This report is in response to the passage of Chapter 143, Laws of 2003 (AN ACT Relating to licensing requirements for elevator mechanics and contractors – Engrossed Substitute Senate Bill 5942). Section 8 of the legislation requires:

- “(1) The elevator safety advisory committee shall review this chapter as it pertains to the regulation of private residence conveyances. The advisory committee shall report its findings and recommendations to the legislature by January 1, 2004. Until July 1, 2004, the licensing requirements of this chapter do not apply to conveyance work on private residential conveyances if the person performing the conveyance work is working at the direction of the owner, and the owner resides in the residence at which the conveyance is located. This section shall not be construed as modifying any other requirements of this chapter applicable to private residential conveyances.*
- (2) This section expires July 1, 2004.”*

To address the legislative directive this report includes a(n):

- Discussion on the background of this legislation.
- List of the participants involved in the development of this report.
- Description of the types of private residence conveyances that would be affected by the results of this report.
- Discussion and data relating to the use of private residence conveyances by the aged and disabled populations.
- Information on the history and current regulatory system for elevators and other conveyances, and the differences in the law between commercial and residential conveyances.
- Data relating to the number of permits and proposed licensing costs associated with these types of conveyances.
- Discussion on non-compliance of permitting and inspection requirements for these types of conveyances.
- Comparison of how other states regulate the licensing of work performed on these types of conveyances.
- Description of the public/worker safety mandates.
- Discussion on how the new law regulates material lifts – conveyances that do not transport individuals.
- The findings and recommendations identified by the Elevator Safety Advisory Committee.

# Private Residence Conveyance Licensing Report

## January 2004

### **Background:**

In 2002, the Legislature enacted legislation (Chapter 98, Laws of 2002 – Substitute House Bill 2629) to establish licensing requirements for mechanics and contractors performing work on elevators and other conveyances under Chapter 70.87 RCW. This legislation was promoted by the International Union of Elevator Constructors (IUEC) as part of a national effort to require licensing for this type of work in all states. The IUEC was working from a proposed Model Law, which was a draft law that was generically designed to establish an entire regulatory system for states that did not have one. As Washington already had a system in place for permitting and inspecting elevators and other conveyances only the provisions relating to licensing were utilized for the legislation in Washington. This legislation was supported by several parties and passed both the House of Representatives and the Senate.

The proponents for the “Model Law” presented materials to the Legislature supporting the need for the licensing of individuals performing work or employing individuals to perform work on elevators and other conveyances (See Attachment A – “Deaths and Injuries Involving Elevators or Escalators”). Based on this information and the overwhelming support for this legislation the Legislature chose to enact changes to the Elevator Law (See Chapter 70.87 RCW and Chapter 296-96 WAC) to establish elevator mechanic and contractor licensing requirements.

After this law was enacted, L&I utilized a collaborative process to begin implementing this new law. This process included meeting with various stakeholder groups to discuss the new law and L&I’s implementation plan and draft rules for putting the process and licensing requirements in place. During these discussions, numerous stakeholders representing private industries, utilities, universities, contractors, and manufacturers of private residence conveyances, and homeowners expressed surprise and concern with how the new law would have regulated them and requested relief to address their concerns. Bound by the provisions of the new law, L&I was unable to address their concerns from a regulatory perspective. These individuals opted to seek legislative relief to address their concerns. L&I worked with these individuals throughout the 2003 legislative session to develop and negotiate legislation that addressed the concerns identified with the 2002 legislation in order to create reasonable conveyance-related licensing requirements that provided adequate public/worker safety and consumer protection.

The 2003 legislation that passed (Chapter 143, Laws of 2003 – Engrossed Substitute Senate Bill 5942) was the product of this process and passed the Legislature with an overwhelming majority. In this legislation the Legislature chose to require that a report be completed by the Elevator Safety Advisory Committee, which included findings and recommendations as to how individuals performing work or employing individuals to perform work on private residence conveyances should be regulated and/or licensed.

In addition, the new law:

- Gave L&I the necessary flexibility and authority to develop rules and licensing requirements to ensure a greater level of worker and public safety by providing more assurance that individuals working on elevators and other conveyances are qualified to do so.
- Addressed several issues that arose during the implementation process of Chapter 98, Laws of 2002 (Substitute House Bill 2629 – Elevator Licensing), relating to when and to what level

work being performed on elevators and other conveyances should require licensing.

- Created new definitions necessary for use with the changes to the law.
- Excluded certain types of work from the elevator licensing -- these types of work are limited to maintenance-type work and are only allowed under limited circumstances provided training and record keeping requirements are met.
- Increased and specified the membership of the Elevator Safety Advisory Committee.
- Established a licensing category for material lifts that utilizes a system that does not require three years of experience to become a licensed elevator mechanic.
- Provided L&I with the authority to create licensing categories in rule.
- Exempted certain types of work from the elevator contractor licensing requirements.

### **Participants involved in the development of this report:**

The Elevator Safety Advisory Committee (consisting of various members of the elevator and conveyance industry); Jim Bender, IUEC; Bill Morrell, Adaptive Installations; Kevin Morris, Access Elevator; Scott Sprague, Accumar; Bob McLaughlin, Tramway Users Group; Eric Hamilton, Hillside Elevator; Frank Regalado; IUEC; Gary Shackleford, VTS; Gary Wood, Sterling Elevator; Jack Carr, Boeing; Josh Swanson, L&I; and Dotty Stanlaske, L&I, and several other stakeholders and interested parties.

To address the legislative mandate and to ensure that this report was completed in a timely manner, L&I established a subcommittee to assist the Elevator Safety Advisory Committee in completing this report. This subcommittee met several times (See Attachment B - for meeting attendees, recaps of the meetings, and feedback provided by the committee and other industry stakeholders) to discuss private residence conveyance licensing and provided progress reports to the Elevator Safety Advisory Committee on several occasions. The Elevator Safety Advisory Committee in determining the findings and recommendations identified in this report considered the feedback and information provided by the subcommittee.

### **Types of private residence conveyances that would be affected by the results of this report:**

1. Residential Elevator - a power passenger elevator that is limited in size, capacity, rise, and speed and is installed within a private residence or in a multiple dwelling as a means of access to a single-family private residence.
2. Residential Vertical Wheel Chair lift - a lift that travels in a vertical direction and is designed for use by physically handicapped individuals and is limited by rise, capacity, size and speed and is installed in a single-family private residence.
3. Residential Incline Wheel Chair Lift - a lift that travels at an angle of 70 degrees or less from the horizontal direction and is designed for use by physically handicapped individuals and is limited by rise, capacity, size and speed and is installed in a single-family private residence.
4. Residential Dumbwaiter - a hoisting and lowering mechanism equipped with a car of limited size which moves in guide rails and serves two or more landings and is used exclusively to carry materials and is installed in a single-family private residence.
5. Residential Inclined Stairway Chair Lift - a lift that travels in a basically inclined direction, mounted along a stairway and used to transport a person. The lift consists of a single-person seat and is installed in a single-family private residence.
6. Residential Inclined Elevator - an elevator that travels at an angle of inclination of 70 degrees or less from the horizontal. One type is used to transport people and/or property for a single-family private residence and the other is used for transporting only property at a single-family private residence.

**Discussion and data relating to the use of private residence conveyances by the aged and disabled populations:**

Private residence conveyances serve various different needs for homeowners. Examples of some of the various uses of private residence conveyances include:

- Providing accessibility for aged and disabled individuals.
- Transporting people and/or property from one floor to another.
- Transporting people and/or property down a steep slope or hillside.

A member of the subcommittee identified the need to include information and data in this report relating to the aged and disabled populations, which may require the use of private residence conveyances, specifically, for the purpose of identifying cost inhibitors for ensuring access. This subcommittee member provided excerpts from two different reports (See Attachment C). These reports provide a great deal of information relating to the aged and disabled populations. In fact, according to the *Technology Assessment of the U.S. Assistive Technology Industry* prepared by the U.S. Department of Commerce:

“Approximately 50 million Americans have some kind of disability—17.5 percent of the 285 million people who reside in the United States...In sheer numbers, the population of people with disabilities in the United States is certain to grow dramatically as the population ages. In 2001, the U.S. Census estimates that there are 59.6 million people living in the United States who are 55 years of age or older. The figure is projected to skyrocket to 102.7 million by 2025.”

Neither report provides any specific information or data relating to the cost implications associated with licensing and ensuring a minimum level of competency for individuals working on private residence conveyances. However, both reports provide suggestions on how to address the growing demand for services associated with the disabled and aged populations.

- “improving manufacturing efficiency and technology insertion, and fielding new designs to lower production cost”
- “increasing awareness among people with disabilities of the availability of AT [assistive technology]”
- “state and federal health agencies, regulators, and legislators need to provide more flexibility in administering medical assistance programs that provide AT products to people with disabilities.”
- “Businesses too, will find themselves adapting to the demands of a new market segment, opening up new opportunities for products and services.”

**History and current regulatory system for elevators and other conveyances:**

In 1963, the Legislature adopted elevator permitting and inspection requirements in Chapter 70.87 RCW. Among other things, this law established that certain elevators and other conveyances would be required to be inspected upon installation, when altered, and on an annual basis. The Legislature charged L&I to enforce this law and allowed the cities of Spokane and Seattle to retain their existing permitting and inspection programs provided their requirements were at least equal to the requirements of this chapter and to all rules pertaining to conveyances adopted and administered by L&I.

In 1997, the Legislature defined and established a different standard for private-residence conveyances. Under this legislation, private residence conveyances operated exclusively for single-family use were only required to be inspected and tested when a permit is issued for installing, moving, or altering the conveyance, or when L&I investigated accidents or violations of the statute governing conveyances.

In 1998, the Legislature again amended the law to establish definitions for several types of conveyances and to change the inspection responsibility for a few conveyances from the industrial safety and health program to the elevator inspection program. Also, only construction personnel were authorized to ride an elevator with a "limited use" permit. And lastly, private residence conveyance owners were exempted from the operating permit requirement, unless the owner requested an annual operating permit.

Most recently, and as already explained above, the 2002 and 2003 Legislature established licensing requirements for mechanics and contractors performing work on elevators and other conveyances.

Once the 2003 legislation is fully implemented there will be a complete regulatory system in place for elevator and conveyance work as it relates to elevators and other conveyances in commercial\* settings. This system will include permitting, inspections, and licensing of mechanics and contractors performing work on elevators and other conveyances, with limited exceptions.

\*It is important to note that if changes are not made to the law relating to private residence conveyances, effective July 1, 2004, any individual working on a private residence conveyance will be required to be a licensed elevator mechanic and be employed by a licensed elevator contractor.

#### **Permit and proposed licensing costs associated with private residence conveyances:**

To better understand the quantity of private residence conveyances inspected and the costs associated with those installations and alterations, L&I and the City of Seattle provided data which is outlined in the charts below.

Chart 1 – This chart reflects the number of new installation permits issued by L&I for the last three calendar years. The data in parentheses reflects the percentage of the total number of new installation permits issued.

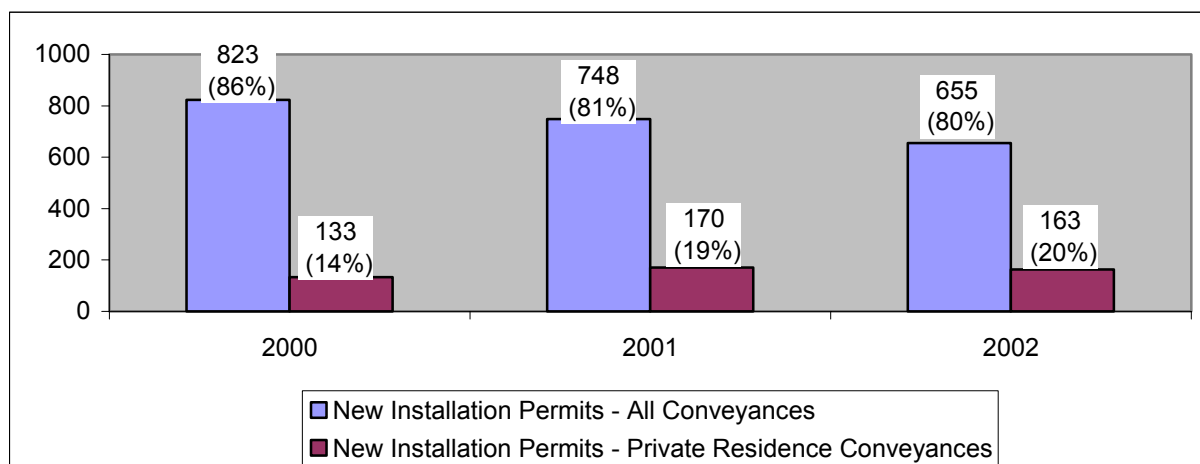


Chart 2 – This chart reflects the number of alteration permits issued by L&I for the last three calendar years. The data in parentheses reflects the percentage of the total number of alteration permits issued.

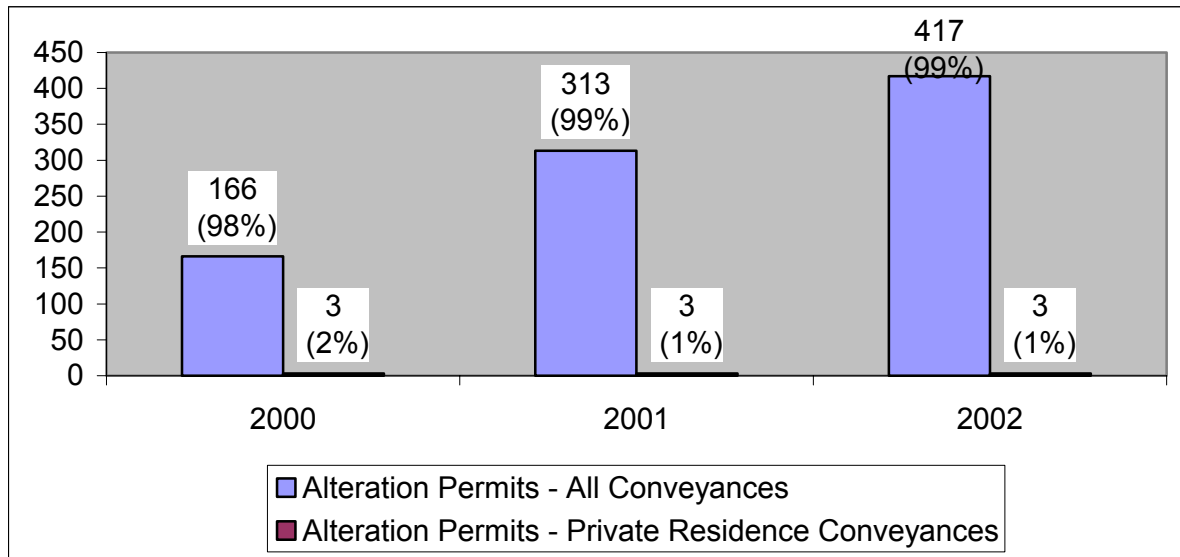
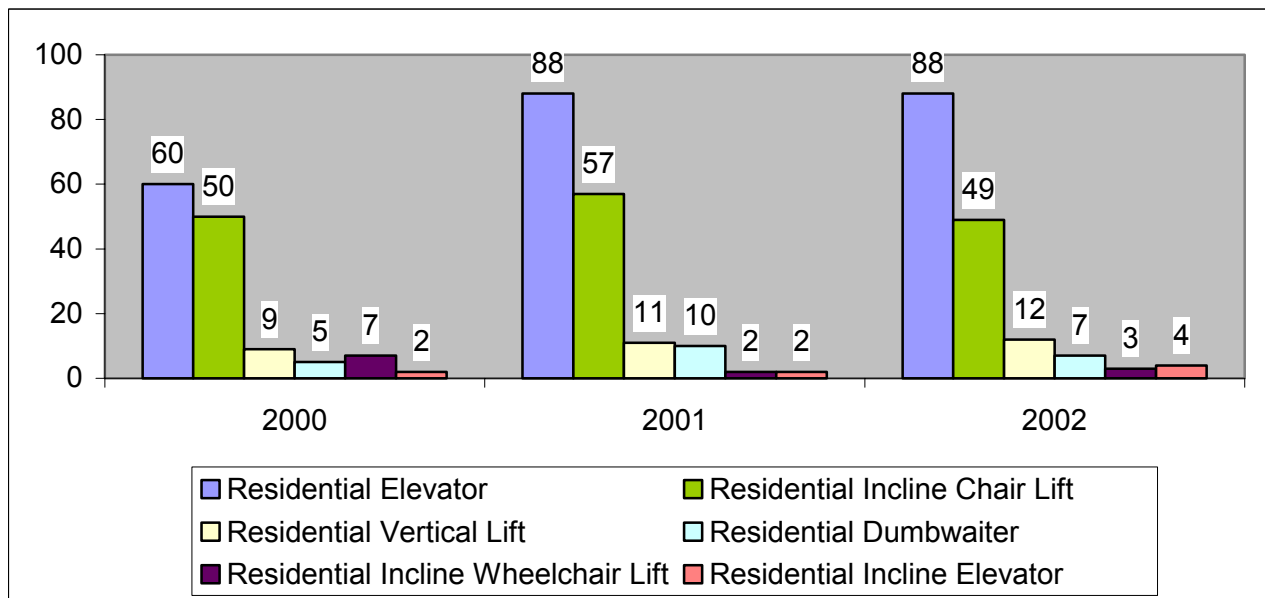
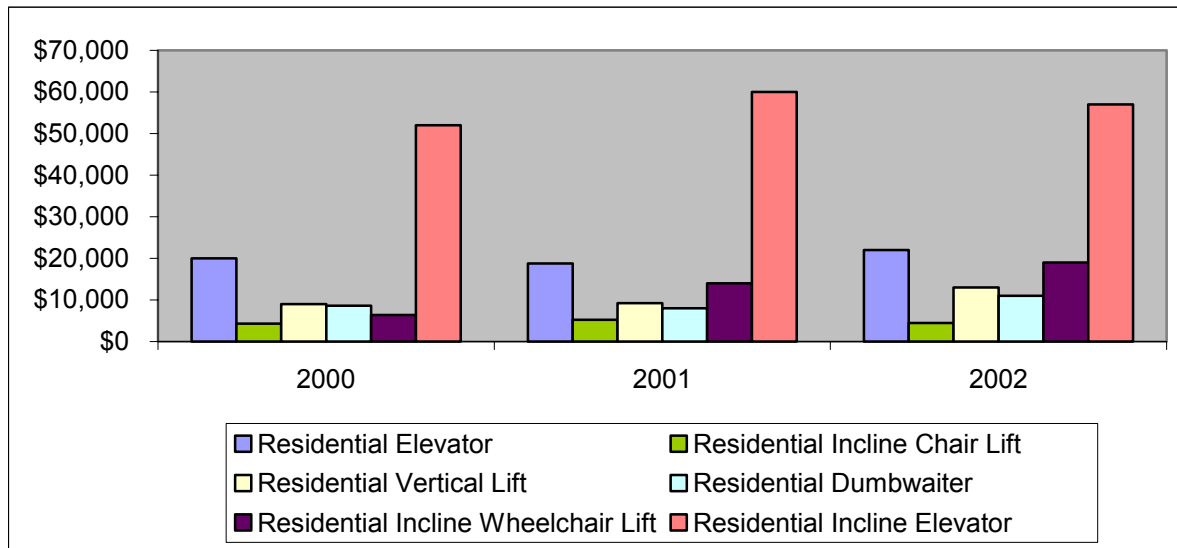


Chart 3 - This chart reflects the types and number of new residential conveyance installation permits issued by L&I.

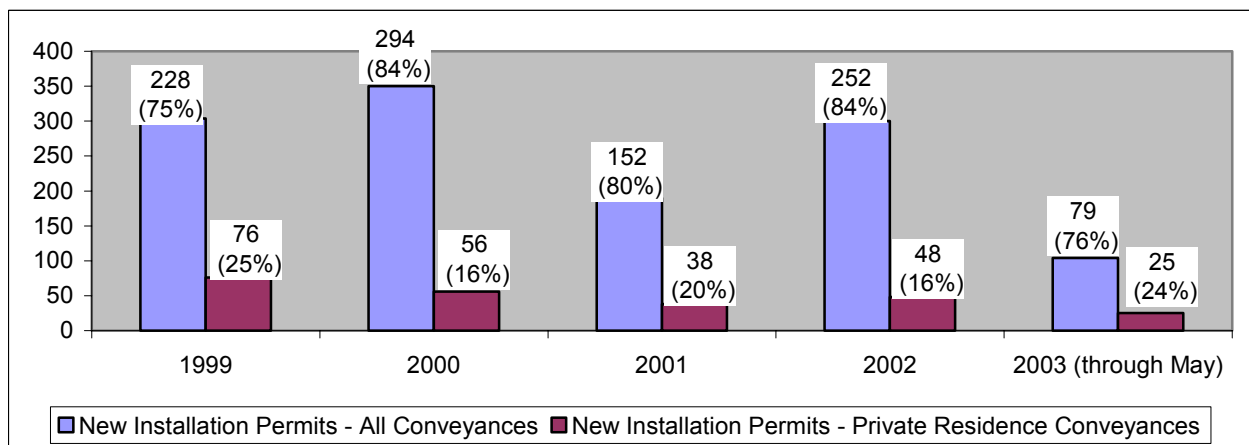




**Chart 4** – This chart reflects the average cost associated with the installation (labor and materials) of the various private residence conveyances. It should be noted that L&I did not include data that was significantly high or low so as to ensure this information clearly reflected the average cost associated with these installations. It should also be noted that a similar chart reflecting the costs associated with alterations of private residence conveyances was not included in this report as very few permits for these conveyances are issued (See Chart 2).



**Chart 5** – This chart reflects the number of new installation permits issued by the City of Seattle for the last three calendar years. The data in parentheses reflects the percentage of the total number of new installation permits issued.



**Expected licensing application, processing, and examination fees:**

To identify the expected costs associated with obtaining an elevator contractor or mechanic license L&I provided the draft fee schedule below. These fees are currently under review and will be included in the rulemaking effort that L&I will be adopting to implement the 2003 legislation. As can be seen from this information, a biennial licensing fee of \$100 for contractors and mechanics is expected. Additional fees may be required during the application process depending on whether the applicant is able to utilize current work experience to become licensed without an examination.

<b>Type of Fee</b>	<b>Period Covered by Fee</b>	<b>Dollar Amount of Fee</b>
Elevator contractor/mechanic application fee	Per application	\$50.00
Elevator contractor/ mechanic examination fee	Per examination	\$150.00
Reciprocity application fee*	Per application	\$50.00
Elevator mechanic license	2 years	\$100.00
Elevator contractor license	2 years	\$100.00
Temporary elevator mechanic license	30 days	\$25.00
Elevator mechanic/contractor timely renewal fee	Two years	\$100.00
Elevator mechanic/contractor late renewal fee**	Two years	\$200.00
Training provider application/renewal fee	Two years	\$50.00
Continuing education course fee by approved training provider***	One year	Not applicable.
Replacement of all licenses	Not applicable.	\$15.00

\* Reciprocity application is only allowed for applicants that are applying work experience toward licensing that was obtained in state(s) that the department has a reciprocity agreement with.

\*\* Late renewal is for renewal applications received no later than 90 days after the expiration of the licenses. If the application is not received within 90 days from license expiration the licensee must reapply and pass the competency examination.

\*\*\* This fee is paid directly to the continuing education training course provider approved by the department. This fee is not paid to the department.

### **Discussion of non-compliance in the private residence conveyance industry:**

Although there is no available data that identifies all of the non-compliance that exists in this state relating to the elevator laws it can be assumed that it does exist. A few different sources can be looked at to conclude that noncompliance does occur, albeit to what extent, is unknown.

First, and as a matter of practice, L&I is often requested to perform inspections on existing private residence conveyances for various reasons (e.g. when a home is being sold). In some cases, L&I determines that permits were not applied for and inspections were not performed on these conveyances.

The second source, which may be more of a consideration, is that the law does not require that a private-residence conveyance owner obtain an operating permit and receive yearly inspections. Therefore, after the initial inspection, the inspection authority does not perform an inspection until the owner or the contractor requests one. It can reasonably be assumed that some owners and contractors do not request an initial inspection either because they do not know that one is required or they do not want to pay the costs associated with the inspection.

The third source is that since 1995 L&I currently has 54 private residence conveyances that an installation permit was obtained for which a final inspection was never performed. Although some of the conveyances may not have been installed, it can be assumed that several of them were and the final safety inspection has yet to be performed. These conveyances may or may not have been installed safely and to code.

**Comparison of states – private conveyance licensing:**

In order to obtain information from other states that have adopted or are considering adopting licensing requirements regarding their current licensing requirements L&I performed an informal survey asking several different states the following questions:

1. Do you currently have licensing requirements?
2. What types of residential conveyances are currently regulated?
3. Will mechanics working on residential units require licensing?
4. What type of license will be required for mechanics?
5. What requirements will be necessary to obtain a license to work on residential conveyances?

Fourteen of the 15 states surveyed either do or will have licensing requirements for conveyance work. Eight of the 15 states require licensing for individuals performing work on private residence conveyances. The specific requirements (e.g. years of experience and examination requirements) vary amongst the states. See Attachment D for the actual data and the states surveyed.

**Public/worker safety mandate:**

RCW 70.87.020 establishes the following:

*“(1) The purpose of this chapter is to provide for safety of life and limb, to promote safety awareness, and to ensure the safe design, mechanical and electrical operation, and inspection of conveyances, and performance of conveyance work, and all such operation, inspection, and conveyance work subject to the provisions of this chapter shall be reasonably safe to persons and property and in conformity with the provisions of this chapter and the applicable statutes of the state of Washington, and all orders, and rules of the department. The use of unsafe and defective conveyances imposes a substantial probability of serious and preventable injury to employees and the public exposed to unsafe conditions. The prevention of these injuries and protection of employees and the public from unsafe conditions is in the best interest of the people of this state. Personnel performing work covered by this chapter must, by documented training or experience or both, be familiar with the operation and safety functions of the components and equipment. Training and experience must include, but not be limited to, recognizing the safety hazards and performing the procedures to which the personnel performing conveyance work covered by this chapter are assigned in conformance with the requirements of this chapter. This chapter establishes the minimum standards for personnel performing conveyance work...”*

To comply with the statutory mandate the Elevator Program performs more than 13,000 safety inspections for all new and altered elevators and conveyances, as well as providing annual safety inspections on all commercial elevators and other conveyances, including grain elevators. These safety inspections are necessary to protect the people of the state from damage to life or health, or from economic loss caused by unsafe conditions in elevators and other types of conveyances.

With the passage of the 2003 legislation the program will soon begin licensing elevator contractors and mechanics. These licenses will ensure that individuals have met a minimum amount of competency prior to performing work on elevators and other conveyances.

**Material lift licensing requirements:**

In this past legislative session the Legislature utilized a different approach for the licensing of individuals that perform work on material lifts. It established that a material lift license could be issued to any person who possessed the following qualifications:

*“(1) The person: (a) Must be employed by an elevator contractor that complies with subsections (2) and (3) of this section; (b) must have successfully completed the training described in subsection (2) of this section; and (c) after successfully completing such training, must have passed a written examination administered by the department that is designed to demonstrate competency with regard to conveyance work on material lifts; (2) The employer must provide the persons specified in subsection (1) of this section adequate training, including any training provided by the manufacturer, ensuring worker safety and adherence to the published operating specifications of the conveyance manufacturer; and (3) The employer must maintain: (a) A conveyance work log identifying the equipment, describing the conveyance work performed, and identifying the person who performed the conveyance work; (b) a training log describing the course of study applicable to each conveyance and identifying each employee who has successfully completed the training described in subsection (2) of this section and when such training was completed; and (c) a record evidencing that the employer has notified the conveyance owner in writing that the conveyance is not designed to, is not intended to, and should not be used to convey workers.”*

This approach established a different standard for the licensing of individuals performing work on material lifts than that for all other licensed elevator mechanics as it removed the requirement that the individual must have worked a specified amount of time (e.g. 3 years for all other mechanic categories) prior to being eligible to take the examination for licensing. This standard allows the employer (elevator contractor) to determine and attest to the fact that the individual is qualified to be eligible for licensing. It appears that this provision attempts to empower the employer while also making them responsible for training their employees so as to ensure they are competent to perform work on these types of conveyances.

It should be noted that material lifts are not designed or intended to convey individuals. It should also be noted that this standard was supported by this industry as a means of ensuring that individuals performing this type of work were licensed and qualified to do so.

**Findings:**

The Elevator Safety Advisory Committee considered the following alternatives:

Finding 1: Licensing should be required to ensure for a minimum level of competency for individuals and companies that perform or contract work on private residence conveyances.

Finding 1.1: L&I should be provided with the authority to adopt private residence conveyance licensing requirements in rule.

Finding 1.2: Support licensing requirements similar to those that were established for material lift licensing with reduced experience requirements for mechanics from three years to one year.

Finding 1.3: Support licensing requirements for the installation or alteration of residential elevators.

Finding 2: Exemptions from private residence conveyance licensing should be allowed.

Finding 2.1: Retain the current system and do not require licensing for any elevator mechanics or contractors performing work on private residence conveyances.

Finding 2.2: Exemptions from the licensing requirements should be allowed for maintenance work performed by an owner or at the direction of the owner if the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the general public.

Finding 2.3: Exemptions should be allowed for all private residence conveyances with the exception of private residential elevators.

Finding 3: The Legislature should consider providing L&I with additional resources in order to effectively ensure private residence conveyance owners know their responsibilities under the law.

**Recommendations:**

The Elevator Safety Advisory Committee recommends that licensing requirements should be established for all private residence conveyances and L&I should be provided with the authority to establish these licensing requirements in rule. In addition, maintenance work performed by an owner or at the direction of the owner should be exempt from licensing if the owner resides in the residence at which the conveyance is located and the conveyance is not accessible to the general public.

The Elevator Safety Advisory Committee supports the draft legislation that L&I is considering introducing in the 2004 legislative session as it seeks to codify our recommendations. The Elevator Safety Advisory Committee further recommends that the Legislature should consider providing L&I with additional resources in order to effectively ensure private residence conveyance owners know their responsibilities under the law.

Lastly, it is important to note that if changes are not made to the law relating to private residence conveyances, effective July 1, 2004, any individual working on a private residence conveyance will be required to be a licensed elevator mechanic and be employed by a licensed elevator contractor.